

Order

Michigan Supreme Court
Lansing, Michigan

March 26, 2007

Clifford W. Taylor,
Chief Justice

132673

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 132673
COA: 272475
Montcalm CC: 03-000816-FC

BENJAMIN JAY SHOFFNER,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the November 8, 2006 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REMAND this case to the Montcalm Circuit Court for a determination of whether defendant is indigent and, if so, for the appointment of appellate counsel, in light of *Halbert v Michigan*, 545 US 605; 125 S Ct 2582; 162 L Ed 2d 552 (2005). Appointed counsel may file an application for leave to appeal to the Court of Appeals, and/or any appropriate postconviction motions in the trial court, within twelve months of the date of the circuit court's order appointing counsel, as, at the time defendant was denied counsel, he was entitled to file pleadings within twelve months of sentencing rather than six. See the former versions of MCR 7.205(F)(3), MCR 6.311, and MCR 6.429. Counsel may include among the issues raised, but is not required to include, those issues raised by defendant in his application for leave to appeal to this Court.

We do not retain jurisdiction.



s0319

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 26, 2007

Corbin R. Davis

Clerk